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| 10/820,728 | 04/09/2004 | Ching-Ho Fang | MR1035-1445 | 9023 |
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| EXAMINER | | | | |
| NGUYEN, PHUNG HOANG JOSEPH | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/820,728

Applicant(s)

FANG ET AL.

Examiner

PHUNG-HOANG J. NGUYEN

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Applicant's amendment filed 07/01/2008 has been entered. Claims 1-3, 5-6, 9, 12-15 and 18-19 have been amended. No claims have been cancelled. No new claims have been added. Claims 1-19 are still pending in this application, with claim 1 being independent.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Appropriate correction is required.

4. Claim 6, in part, recites "the common service platform utilizes hypertext transfer protocol (HTTP), enterprise java beans (EJB), and extended markup language (XML) for communicating with the service providers". The term "platform" in this particular claim is overly broad and widely open for interpretation and thus fails to particularly and distinctly point out the subject matter. Examiner notices that the Specification does specifically specify the common service platform server. Examiner suggests one of the following modifications which would heal the deficiencies of 35 U.S.C. 112, second paragraph: a) "the common service platform *server* utilizes hypertext transfer protocol (HTTP), enterprise java beans (EJB), and extended markup language (XML) for

communicating with the service providers”; b) “the common service platform *comprising a computer server which* utilizes hypertext transfer protocol (HTTP), enterprise java beans (EJB), and extended markup language (XML) for communicating with the service providers”; or c) “the common service platform *comprising a CPU which* utilizes hypertext transfer protocol (HTTP), enterprise java beans (EJB), and extended markup language (XML) for communicating with the service providers”

5. Claim 6, as the whole, fails to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Examiner experienced difficulty in making claim analysis. Appropriate correction/clarification is required.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claim 6 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The language of the claim raises a question as to whether the claim is directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101.

7. Claim 6 claims the non-statutory subject matter of a “programming language” means. Data structures not claimed as embodied in computer-readable media are

descriptive material per se and are not statutory because they are not capable of causing functional change in the computer. See, e.g., *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1754 (claim to a data structure per se held nonstatutory). Therefore, since the claimed “programming language” are not tangibly embodied in a physical medium and encoded on a computer-readable medium then the Applicants has not complied with 35 U.S.C 101.

Examiner notices that the U.S. Patent and Trademark Office's current practice requires that a programming language be claimed in the following manner: “A computer readable medium comprising code which when executed causes a computer to perform the claimed method of communicating with the service providers. Appropriate correction is required.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. **Claims 1, 5, 9-10, and 15-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Berlyoung et al (US Pat 7,177,412).**

As to claim 1, Berlyoung teaches a method for broadcast transmitting multimedia messages (**See Abstract**), comprising:

a plurality of service providers (**service provider 18 of fig. 1. Note that fig.1 shows only one service provider 18. Berlyoung indicated could be one or more providers, col. 2, line 7. Or Service Provider 181-18d, col. 3, line 67**) each for independently generating multimedia messages registering (**the concept of registering is inherent by the nature of subscription. When one is subscribing a service, any service at all, registration is a pre-requisite activity, merely from the business perspective, the provider must have some basic information about the subscriber in order to do the business**) with a common service platform (**Control Unit 12 of fig. 1; col. 3, line 40**).

a plurality of customer premises equipment (CPE's) (**local communication devices 20, col. 3, line 41**) registering (**control unit 12 couples with the devices 20, col. 3, line 41**) with the common service platform (**Control Unit 12 of fig. 1; col. 3, line 40**);

each of the service providers (**anyone of the service provider 18a-18d, col., 3, line 67**) sending at least one multimedia message as well as related information (**i.e., multi-media communications; Col. 2, line 8; or the outgoing calls and incoming calls and multi-party conference calls; col. 4, lines 35-39**) regarding the CPE's that are to receive the at least one multimedia message thereof to the common service platform (**control unit 12**);

the common service platform (**control unit 12**) determining whether the CPE's designated by each of the service providers are registered (***the concept of registering is inherent by the nature of subscription. When one is subscribing a service, any service at all, registration is a pre-requisite activity, merely from the business perspective, the provider must have some basic information about the subscriber in order to do the business. Berlyoung demonstrates this concept of registration as shown in fig. 1 where any conventional telephone station or CPE coupling to the control station 12. Furthermore, Berlyoung states the communication and control signal between the control unit 12 and communication station may be wireless, col.2, line 13. As appreciated by the ordinary skilled artisans that control signal indicates the identity of the known (or in this case registered) channel or path by which data is transferred***); and

the common service platform (**control unit 12**) selectively sending the at least one multimedia message (***i.e., multi-media communications; Col. 2, line 8; or the outgoing calls and incoming calls and multi-party conference calls; col. 4, lines 35-39***) of any one of the registered service providers to the designated ones of the plurality of CPE's via a multimedia messaging server (***for "registered", see the above***).

As to claim 5, Berlyoung teaches the multimedia message comprises an image, an animation, an audio clip, or text or a combination of the above (***messages received from the control unit 12, generating an image on the touch panel graphic display 72; col. 11, lines 35-36***).

As to claim 9, Berlyoung, teaches the service providers (anyone of the Service Provider network 18a-18d) use a public telecom network (i.e., Berlyoung: PSTN 42 of fig. 1; col. 3, line 54) a limited telecom network, a local area network, a wide area network, a radio network, a satellite network, an optical cable network, a computer network or a cable TV network to transmit multimedia messages (i.e., Berlyoung: multimedia communications; Col. 2, line 89) to the common service platform (i.e., Berlyoung: control unit 12; Also see detail description of fig. 1).

As to claim 10, Berlyoung teaches the common service platform (**control unit 12**) uses a public telecom network (**PSTN 42 of fig. 1; col. 3, line 54**), a limited telecom network, a radio network, a satellite network, an optical cable network, a computer network or a cable TV network to send the multimedia messages (**multi-media communications; Col. 2, line 8**) to the CPEs (**See detail description of fig. 1**).

As to claim 15, Berlyoung teaches the CPE uses information network (**see fig. 8a for information related to network as well as the subscribers**) to connect to the common service platform in order to register or to select content of the multimedia messages that the service providers provide (**provide main menu display content and style sheet, Fig. 9a, label 312 and fig. 9b, label 328. Also see fig. 7, label 260 showing a display controller**).

As to claim 16, Berlyoung teaches the information network comprises the Internet (**the multi-media Service Provider network 18 may utilize the Internet Protocol Suite for communication at the IP level, col. 3, lines 59-60**).

As to claim 17, Berlyoung teaches the information network is a public telecom network, a limited telecom network, a radio network, a satellite network, an optical cable or fiber optic network, or a cable TV network (***a multi-media communication service provider such as a local cable company, col.4, line 5***).

As to claim 18, Berlyoung teaches the CPE uses a telephone (i.e., PSTN system of fig. 2) to connect (coupling via PSTN interface 25) to the common service platform (i.e., control unit 12) in order to register or to select content (i.e., provide main menu display content and style sheet, Fig. 9a, label 312 and fig. 9b, label 328) of the multimedia messages (i.e., multi-media communications;. Col. 2, line 8; or the outgoing calls and incoming calls and multi-party conference calls; col. 4, lines 35-39) that the service providers (i.e., Service Provider network 18a-18d) provide.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. **Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berlyoung et al (US Pat 7,177,412) in view of Brown (US Pat 7,130,405).**

As to claims 3-4, Berlyoung teaches common service platform (***control unit 12***) and service providers (***service providers 18a-18d***) and CPE (***local communication devices or communication space stations***).

Berlyoung does not explicitly teach the common service platform provides at least one password or one username to each of the service providers and the common service platform provides at least one password or username to each CPE.

Brown teaches the authentication information may be provided, but not limited to, a password, an eye scan, a smart card ID, and other security devices (col. 5, lines 60-62). Furthermore, Brown teaches authentication of the identity of the caller is preferably initiated in Intelligent Peripheral 17 of fig. 1 or Telco application server 22 (col. 9, lines 35-36) for the purpose of securing the identify of the caller/callee and to ensure that the caller/caller is an intended user.

Therefore, it would have been obvious to one of the ordinary skilled in the art at the time of the invention was made to incorporate the teachings of Brown into Berlyoung for the purpose of providing a security method to prevent any misuse of the communication process. Certainly, it is to provide greater protection of privacy.

12. Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berlyoung et al (US Pat 7,177,412) in view of Zimmerman et al (US Pat 6,526,131).

As to claims 7-8, Berlyoung teaches the related information regarding the CPE's that are to receive the at least one multimedia message (***Berlyoung: multi-media communications; Col. 2, line 8; or the outgoing calls and incoming calls and multi-party conference calls; col. 4, lines 35-39***). Berlyoung does not specifically teach comprising usernames of the CPE or usernames and passwords or mobile phone numbers of the CPE's.

However, Zimmerman teaches the Network Access Service Provider runs an authentication server 19 for authenticating users by username and password (**Zimmerman: Col. 6, line 32**) for the purpose of authenticating the users.

Therefore, it would have been obvious to one of the ordinary skilled in the art at the time of the invention was made to incorporate the teachings of Zimmerman into Berlyoung for the purpose of enhancing the verification process in an initiation of communication between network service system and customer-premises equipment.

13. Claims 2, 6, 11 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berlyoung in view of Fenton et al (US Pub 2003/0193967).

As to claim 2, Berlyoung teaches at least one of the service providers (**anyone of the Service Provider network 18a-18d**) and the common service platform (**control unit 12**).

Berlyoung does not teach at least one of the service providers (**anyone of the Service Provider network 18a-18d**) and the common service platform (**control unit 12**) are a same server.

Fenton teaches the MMSE 114 encompasses all the various elements that provide a complete MMS 100 to a user (**pars. 0027-0028**) whereat the MMS Relay 128 and MMS Server 130 can be separate logical elements as shown, or they can be combined into a single MMS Relay/Server element (**par. 0029**) for the purpose of providing convergence functionality between external servers 138 and MMS User

Agents 102, 104, 106, 108, 110 and 112 to enable the integration of different server types across different networks (*par. 0030*).

Therefore, it would have been obvious to one of the ordinary skilled in the art at the time of the invention was made to incorporate the teachings of Fenton into Berlyoung for the purpose of offering full support for every type of communications in a cost effective and compact way as it provides a standardized set of service capabilities and features on which the new services will be built.

As to claim 6, Berlyoung teaches the common service platform (*control unit 12*). Berlyoung does not specifically teach the common service platform utilizes hypertext transfer protocol (HTTP), enterprise java beans (EJB), and extended markup language (XML) for communicating with the service providers, at least one of the service providers being different in system processing type and programming language from another of the service providers.

Fenton teaches the use of hypertext transfer protocol (HTTP), enterprise java beans (EJB), and extended markup language (XML) for communicating (*par. 0055*) for the purpose of enhancing by utilizing the various protocols and/or languages in the multimedia communication.

As to claims 11 and 19, Berlyoung teaches the CPE and the multimedia message.

Berlyoung does not specifically teach after the CPE has received the multimedia message, the CPE sends a reply back to the common service platform. Furthermore,

Berlyoung does not teach the CPE can set a time of delivery for receiving the multimedia message.

Fenton teaches a reply back (*Fenton: read_reply_report, par. 0086, line 14; also see Table 26-27 in replying to the delivery_report, par 0126*) for the purpose of acknowledging that multimedia message has been received, has been read, or has deleted without reading the actual content of the message (*Fenton: Table 26*).

Furthermore, Fenton teaches the forwarding MMS User Agent may time stamp the multimedia message. The forwarding MMS User Agent may request an earliest desired time of delivery of the multimedia message (*par. 0086, line 8*)

Therefore, it would have been obvious to one of the ordinary skilled in the art at the time of the invention was made to incorporate the teachings of Fenton into Berlyoung in view of Brown for the purpose of letting the originator know about the status of the message and the originator can follow up with the "next-action-taken". Furthermore, multimedia message having the time stamp is always helpful to the recipients to know when the message arrives and to take appropriate action on the message.

14. Claims 12 -14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berlyoung et al (US Pat 7,177,412) in view of Marino et al (US Pat 6,026,165).

As to claims 12-14, Berlyoung does not teach the CPE selectively deletes registration data in order to refuse multimedia message from the service provider. Furthermore, Berlyoung does not teach CPE selects content on the common service

platform to prevent receiving unwanted multimedia messages. And furthermore, Berlyoung does not teach the CPE selects the service provider on the common service platform to prevent receiving multimedia messages from unwanted service providers.

Marino teaches a method of de-registration comprising of a command to delete all registration data disabling the receiver from responding to further encrypted data message (**Marino: col. 4, line 45**) for the purpose of enhancing the system security, where in the encryption key is not conveyed or easily read or decrypted by human means (**Marino: col. 1, lines 16-17**).

Therefore, it would have been obvious to one of the ordinary skilled in the art at the time of the invention was made to incorporate the teachings of Marino into Berlyoung in view of Brown for the purpose of preserving the integrity of the communication process and protecting user from unwanted message and unwanted service providers who attempt to spam with advertisements.

Response to Arguments

Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHUNG-HOANG J. NGUYEN whose telephone number is (571)270-1949. The examiner can normally be reached on Monday to Thursday, 8:30AM - 5:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kunz can be reached on 571 272 7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For

more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information

/Phung-Hoang J Nguyen/

Examiner, Art Unit 2614

/CURTIS KUNTZ/

Supervisory Patent Examiner, Art Unit 2614